IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE A.GOPAL REDDY**

**WRIT PETITION NO: 15474 of 2004**

Between:

L.V. Prasad Eye Institute Road No.2 Banjara Hills, Hyderabad rep by Deputy Director, Administration.

**... PETITIONER**

AND

The Assistant Provident Fund Commissioner Enforcement, Andhra Pradesh, Hyderabad

**...RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or an order more particularly one in the nature of WRit of Certiorari calling for records from the respondent and quash the orders passed in proceedings No. AP/18482 dated 23-4-2004 proceedings NO. AP/18482 dated 23-4-2004.

**Counsel for the Petitioner: MS.G.SUDHA**

**Counsel for the Respondent No.: MR.R.N.REDDY**

The Court at the admission stage made the following Order:

**ORDER:**

Against the order dated 23-04-2004 passed by the respondent assessing the Provident Fund payable by the petitioner under Section 7-A of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, (for short 'the Act') the petitioner preferred an appeal before the Employees Provident Fund Tribunal. As the Tribunal is not functioning, the petitioner could not obtain any stay pursuant to the demand made by the respondent. Therefore, the petitioner moved this Court by way of present Writ Petition questioning the orders passed by the respondent under Sections 7-A and 7-B of the Act.

2. It is well settled proposition of law that when the statutory appeal filed by the petitioner is pending against the same order, the Writ petition for the same relief cannot be entertained. (See 1995 (1) SCC 642).

3. Having regard to the facts and circumstances of the case, on petitioner depositing 50% of the amount so demanded, within a period of eight weeks from the date of receipt of a copy of this order, all further steps pursuant to the impugned order are stayed pending disposal of the appeal. On such depositing, the appellate authority shall proceed with the same without insisting for deposit of 75% of the amount. The amount so deposited shall be subject to the result of the appeal filed by the petitioner.

Subject to the above observations, the Writ Petition is disposed of. No costs.

_____

A. **GOPAL REDDY, J**

August 31, 2004

**MRR/MURTHY**

To:

1. The Assistant Provident Fund Commissioner, Enforcement, A.P., Hyderabad.

2. Two C.D. Copies.